



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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BLM Director's Response to the Appeal by the Governors of Utah and Wyoming of the BLM Assistant Director's Governor's Consistency Review Determination

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Approved Land Use Plan Amendments/Record of Decision (ROD) for Allocation of Oil Shale and Tar Sands Resources on Lands Administered by the Bureau of Land Management (BLM) in Colorado, Utah, and Wyoming was signed by the BLM Principal Deputy Director on March 22, 2013. The ROD constitutes the final decision of the BLM and the Approved Plan Amendments were effective immediately upon its signing. In accordance with its regulations, the BLM is publishing the reasons for rejecting the recommendations of the Governors of Utah and Wyoming regarding the Land Use Plan Amendments for Allocation of Oil Shale and Tar Sands Resources on Lands Administered by the BLM in Colorado, Utah, and Wyoming, which were published as proposed in November, 2012.

FOR FURTHER INFORMATION CONTACT: Sherri Thompson, BLM Project Manager, 303-239-3758, (sthompso@blm.gov), Bureau of Land Management, 2850 Youngfield Street, Lakewood, CO 80215 or Mitchell Leverette, BLM Division Chief, Solid Minerals, 202-912-7113, (mleveret@blm.gov), Bureau of Land Management, 20 M

Street S.E., Washington D.C. 20003. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individuals during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The decision in the ROD selects a modified version of Alternative 2(b) from the proposed plan in the Final Oil Shale and Tar Sands Programmatic Environmental Impact Statement, as the Approved Land Use Plan Amendments. The ROD amends 10 land use plans in Colorado, Utah, and Wyoming to make approximately 678,600 acres of lands containing oil shale resources open to application for future leasing and development and approximately 132,100 acres open to application for future leasing and development of tar sands.

In accordance with the regulations at 43 CFR 1610.3-2(e), the BLM submitted the Proposed Plan Amendments on November 8, 2012, to the Governors of Colorado, Utah, and Wyoming for a 60-day Governors Consistency Review in order for the Governors to review the Proposed Plan Amendments and identify any inconsistencies with State plans, policies, or programs. The 60-day review period ended on January 9, 2013. The BLM received letters from the Governors of Utah and Wyoming detailing inconsistencies with State and local plans, policies, and programs. These letters are available at <http://ostseis.anl.gov>. Both Governors expressed reservations about the BLM's proposal to close to oil shale and tar sands leasing and development lands the BLM has identified as having wilderness characteristics and, in Utah, lands identified as occupied Greater Sage-grouse (GSG) habitat. The Governor of Utah expressed concern that the BLM's

proposal would limit opportunities for economic development; the Governor of Wyoming included in his letter comments from certain county governments in Wyoming expressing similar concerns. As the BLM proposed to leave open to oil shale leasing and development (GSG) habitat on public lands in Wyoming, the Governor of Wyoming recommended that protective stipulations be adopted in the land use plan amendments. After careful consideration of the concerns raised by the two States, the Assistant Director decided not to adopt the recommendations raised by the Governors. Copies of the February 6, 2013, letters from the Assistant Director to the Governors are also available at <http://ostseis.anl.gov>.

On March 7, 2013, the Governors of Utah and Wyoming, respectively, appealed the Assistant Director's decision to the BLM Director. On March 22, 2013, the BLM Principal Deputy Director issued a final response to the Governors detailing the reasons for rejecting the recommendations. Copies of both the incoming appeal letters from the Governors and the outgoing BLM response are available at <http://ostseis.anl.gov>.

Pursuant to 43 CFR 1610.3-2(e), the following describes the reasons for the BLM's decision.

This planning initiative is a targeted plan amendment process that addresses only the management of oil shale and tar sands resources. The ROD makes only land use allocation decisions that do not authorize any future leasing or development. The Approved Plan Amendments reflect the BLM's determination that because of the nascent character of the oil shale and tar sands technologies, a measured approach should be taken to oil shale and tar sands leasing and development. This approach is intended to ensure that commercial viability is proven, and the environmental consequences of these

technologies known, before any commitment is made to broad-scale development, which may impact other resource values. Consistent with this approach, the BLM is closing lands that have been identified as having wilderness characteristics from future oil shale and tar sands leasing and development. For the same reason, the BLM is closing occupied (GSG) habitat in Utah. The BLM, the United States Fish and Wildlife Service (USFWS), and the State of Utah are still in the process of coordinating management of this resource, and the occupied habitat maps relied on in this oil shale/tar sands planning initiative represent the best information available to depict areas warranting protection at this early stage of the oil shale and tar sands industries. We recognize that Utah has recently submitted to the BLM its Conservation Plan for GSG; however, until the USFWS and the BLM complete their review of Utah's Conservation Plan in accordance with the BLM National Greater Sage-Grouse Planning Strategy, the State's occupied habitat map represents the best source of information regarding (GSG) habitat.

By contrast, in Wyoming, interagency coordination regarding sage-grouse habitat is at a different stage. In Wyoming, the USFWS has concurred with the Wyoming Governor's Executive Order (EO) 2011-5, and the EO has been adopted in relevant part by the Wyoming BLM in accordance with the guidance issued in the BLM Washington Office Instruction Memorandum No. 2012-43. Under the Approved Plan Amendments, the BLM is not excluding from potential oil shale leasing and development (GSG) habitat, but instead, similar to the State of Wyoming's own approach, will consider adopting protective measures at the time it considers lease issuance, if warranted on the basis of environmental review conducted at that time. Because this ROD approves land use allocation decisions that do not authorize any future leasing or development,

site-specific issues, including, but not limited to, protection of sage-grouse habitat, will be resolved at the lease sale and development stages of the process.

The BLM has made minor modifications and editorial clarifications to the Approved Plan Amendments. These modifications provided further clarification of some of the decisions. Because the Governor of Colorado did not submit a letter, the Proposed Plan Amendments are presumed to be consistent with State plans, policies, and programs in that State.

AUTHORITY: 40 CFR 1506.6, 43 CFR 1610.3-2

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